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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,567	04/19/2004	Gary L. Flinn	FLINN - COFFEE	3189
7590 02/09/2005			EXAMINER	
GARY L. FLINN RT 2 BOX 98 LUBBOCK, TX 79415			PELHAM, JOSEPH MOORE	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/827,567

Applicant(s)

FLINN, GARY L.

Examiner

Joseph M Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/19/04</u> . | 6) <input type="checkbox"/> Other: ____  |

### ***Specification***

The abstract of the disclosure is objected to because the sections identified as "not applicable" should not be included at all. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 2 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are somewhat narrative in form, with indefinite language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Note the format of the claims in the patents cited.

In particular, claim 1, at line 14, recites the coil heater to be "located in said inlet opening;" however, claim 2 recites the coil heater to be "positioned in said outlet opening." The first position precludes the second position in a claim which depends from it.

The Examiner suggests the following claims:

1. A warmed display fixture comprising:

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a housing comprising a low front wall, a back wall higher than the front wall, a bottom wall, a top wall, and end walls forming a display compartment, said housing having an opening providing access to the display compartment from outside the housing;

a stepped panel within said display compartment dividing the compartment into an upper air well above said stepped panel and a lower air well below said stepped panel;

an air passageway having an inlet opening above said stepped panel and an outlet opening below said stepped panel, the front, back, bottom, and end walls, and the stepped panel forming the passageway between said inlet and outlet openings;

said stepped panel comprising horizontal steps and risers therebetween;

said stepped panel also comprising heaters mounted beneath the horizontal steps;

a coil heater and at least one fan to circulate air over said coil heater, in said air inlet opening, under said stepped panel, and out said outlet opening.

2. The warmed display fixture as recited in claim 1, wherein said stepped panel comprises three steps.
3. The warmed display fixture as recited in claim 1, wherein said stepped panel is clad in ceramic tiles.
4. The warmed display fixture as recited in claim 1, further comprising a plurality of fans.

5. The warmed display fixture as recited in claim 1, wherein the coil heater is positioned adjacent said inlet opening.
6. The warmed display fixture as recited in claim 1, wherein the coil heater is positioned adjacent said outlet opening.

***Allowable Subject Matter***

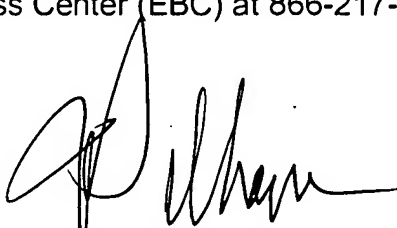
Claims 1 and 2, or suggested claims 1-6, would appear to be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/3/05



JOSEPH PELHAM  
PRIMARY EXAMINER